

IN THE CIRCUIT COURT OF MADISON COUNTY, TENNESSEE  
FOR THE TWENTY-SIXTH JUDICIAL DISTRICT AT JACKSON, TENNESSEE

STATE OF TENNESSEE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. _____
	)	
STEVE SAFA, individually and doing	)	
business as SUPER WAY, VARSITY	)	
MARKET AND PHILLIP’S 66,	)	
	)	
	)	
Defendant.	)	

COMPLAINT

This civil action is brought in the name of the State of Tennessee (“State”), by and through Paul G. Summers, the Attorney General and Reporter (“Attorney General”), pursuant to Tenn. Code Ann. §§ 47-18-108(a)(1), 8-6-109(b)(1) and all common law powers and duties of the Attorney General. David A. McCollum, Director of the Division of Consumer Affairs of the Tennessee Department of Commerce and Insurance (“Division”) has requested that this civil action against the Defendant be commenced by the Attorney General.

The Attorney General is the chief civil law enforcement officer in the State. He has the unique responsibility to protect the public interest of the State of Tennessee’s consumers from deceptive and unfair practices which impact this State. It is in that public interest role that this action is commenced.

The Attorney General and the Division have reason to believe that the Defendant named herein has violated the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. § 47-18-101 *et seq.*, and that this action is in the public interest.

As used in the State’s Complaint, “consumer” or “consumers” shall mean and include any person, a natural person, individual, governmental agency or entity, partnership, corporation, trust, estate, incorporated or unincorporated association, and any other legal or commercial entity however organized.

I. JURISDICTION AND VENUE

1. The jurisdiction of this Court is invoked pursuant to the provision of Tenn. Code Ann. § 47-18-108. Venue is proper in Madison County because it is the county in which Defendant conducts or has conducted business. *See* Tenn. Code Ann. § 47-18-108(a)(3). Defendant has been provided with the ten (10) days notice of contemplated legal action as set forth in Tenn. Code Ann. § 47-18-108(a)(2). *See* Exhibit A, Affidavit and Verification of David A. McCollum, Director of the Division.

## **II. PARTIES**

2. The Plaintiff is the State of Tennessee.

3. Defendant Steve Safa is an individual who is the owner or operator of Super Way, 756 West Forrest Avenue, Jackson, Tennessee. This location is listed with the Assessor's Office of Madison County as the "Varsity Market."

4. Defendant Steve Safa is an individual who is also the owner or operator of Super Way, 798 Airways Blvd., Jackson, Tennessee. This location is listed with the Assessor's Office of Madison County as the "Phillip's 66."

5. Defendant Steve Safa, individually, or in concert with others, controls and directs the operation and management of the various gasoline retail stores described herein.

6. Defendant's stores are not incorporated in the State of Tennessee.

## **III. FACTUAL ALLEGATIONS**

Upon information and belief, the State alleges as follows:

7. Defendant is in the retail business of selling and advertising various goods to consumers, in the State of Tennessee. Defendant specifically has advertised and offered for retail sale petroleum gasoline to consumers.

8. Defendant's businesses are located at 756 West Forrest Avenue, Jackson, Tennessee and at 798 Airways Blvd., Jackson, Tennessee.

9. On the morning of September 11, 2001, four commercial airline jets were hijacked from airports in Boston, Massachusetts, Newark, New Jersey and Dulles Airport in Virginia. These airplanes were used to commit heinous terrorist acts against America in New York, Washington, D.C. and Pennsylvania.

10. Immediately following those terrorist acts against America at a time when Tennesseans

along with other Americas were experiencing the shock and concern from the attacks, the Defendant took advantage of Tennessee consumers by raising its gasoline prices for regular, mid-grade, and premium gasoline.

11. Specifically, beginning at approximately 7:19 p.m. Defendant raised its price for regular petroleum gasoline from \$1.50 to \$1.79 per gallon.

12. On September 11, 2001, at approximately 7:49 p.m. Defendant increased the price of regular gasoline from \$1.79 to \$2.99 per gallon.

13. Immediately following the terrorist actions against America, Defendant raised the price of mid-grade petroleum gasoline.

14. Specifically, beginning at approximately 7:19 p.m. Defendant raised the price of mid-grade petroleum gasoline from \$1.59 to \$1.89 per gallon.

15. On September 11, 2001, at approximately 7:49 p.m. Defendant increased the price of mid-grade gasoline from \$1.89 to \$3.29 per gallon.

16. Immediately following the terrorist actions against America, Defendant raised the price of premium petroleum gasoline.

17. Specifically, beginning at approximately 7:19 p.m. Defendant raised the price of premium petroleum gasoline from \$1.68 to \$1.99 per gallon.

18. On September 11, 2001, at approximately 7:49 p.m. Defendant increased the price of premium gasoline from \$1.99 to \$3.49 per gallon.

19. Defendant's price increases are designed to capitalize on the public misconception that an abnormal market disruption of an essential commodity may have occurred as a result of these terrible terrorist attacks on American soil.

20. Defendant's signs promoted a lower price for gasoline. However, the pumps actually charged consumers a greater price.

21. As a result of the acts and practices alleged herein, consumers or other persons have suffered ascertainable losses whose identities are unknown to the State of Tennessee at this time.

22. The sale, operation and advertisement of Defendants' gas station by Defendants, as alleged herein, constitutes "trade", "commerce" and/or a "consumer transaction" and the offering of or

providing of “goods” and/or “services” as defined in Tenn. Code Ann. §§ 47-18-103(5), (10) and (11).

#### **IV. VIOLATIONS OF THE LAW**

23. Each of Defendants’ act or practice of unnecessarily increasing the price of gasoline in order to profit from the terrorist acts is an unfair or deceptive act or practice in violation of the Tennessee Consumer Protection Act of 1977 . Such unfair or deceptive acts and practices specifically violate Tenn. Code Ann. §§ 47-18-104(a), (b)(9) and (b)(27) which prohibit (in pertinent part):

- (a) Unfair or deceptive acts or practices affecting the conduct of trade or commerce constitute unlawful acts or practice . . .
- (b) Without limiting the scope of subsection (a), the following unfair or deceptive acts or practices affecting the conduct of any trade or commerce are declared to be unlawful and in violation of this part:
  - (9) Advertising goods or services with intent not to sell them as advertised;
  - (27) Engaging in any other act or practice which is deceptive to the consumer or to any other person;

#### **PRAYER FOR RELIEF**

WHEREFORE, PREMISES CONSIDERED, THE STATE OF TENNESSEE PRAYS:

- (1) That this Complaint be filed without cost bond as provided by Tenn. Code Ann. §§ 20-13-101, 47-18-108, and 47-18-116.
- (2) That process issue and be served upon Defendant requiring it to appear and answer this Complaint.
- (3) That this Court adjudge and decree that Defendant has engaged in the aforesaid acts or practices, which are in violation of the Tennessee Consumer Protection Act of 1977.
- (4) That this Court enjoin Defendant from engaging in the aforesaid acts or practices, which are in violation of the Tennessee Consumer Protection Act of 1977.
- (5) That this Court adjudge and decree that the Defendant is liable to the State for the reasonable costs and expenses of the investigation and prosecution of the Defendant’s actions, including attorneys’ fees, as provided by Tenn. Code Ann. §§ 47-18-108(b)(4) and (a)(5).

(6) That this Court make such orders or render such judgments as may be necessary to restore to any consumer or other person any ascertainable losses suffered by reason of the alleged violations of the Tennessee Consumer Protection Act of 1977 including statutory interest as provided by Tenn. Code Ann. § 47-18-108(b)(1).

(7) That this Court adjudge and decree that the Defendant pay civil penalties of not more than one thousand dollars (\$1,000.00) per violation to the State as provided by Tenn. Code Ann. § 47-18-108(b)(3).

(8) That all costs in this cause be taxed against Defendant.

(9) That this Court grant Plaintiff such other and further relief as this Court deems just and proper.

Respectfully submitted,

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PAUL G. SUMMERS  
Attorney General and Reporter  
B.P.R. No. 6285

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